



TESTIMONY

Interim Charge 10: Outsourcing Services

**Testimony Before the
Senate Transportation and Homeland Security Committee**

**John Barton, P.E.
Assistant Executive Director of Engineering Operations
Texas Department of Transportation
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Interim Charge 10: Evaluate outsourcing at the Texas Department of Transportation, including, but not limited to, engineering services and aerial mapping.

Introduction

The Texas Department of Transportation (TxDOT) has a long history of working cooperatively with the private sector to guarantee delivery of a quality transportation system in Texas. Through these partnerships, TxDOT is able to maintain quality services despite budget limitations, and the skills and assets of both entities are shared in delivering infrastructure. TxDOT outsources a wide variety of services and functions to the private sector, namely, construction, maintenance and engineering services. In addition, almost every division within the Department contracts for a portion of their division's responsibilities, such as professional services and services necessary for day-to-day operations. In some instances, it is more efficient and cost effective to perform services in-house. Additionally, according to federal law some functions, such as some environmental services, must be performed within TxDOT. While this is certainly the exception and not the rule, it is important to mention for the purpose of this discussion.

At TxDOT, we believe that a proper balance should exist between services performed by the Department and those performed by the private sector. A well balanced contract partnership maximizes the use of each sector's strengths which allows us to foster innovation and improve our efficiencies, cost effectiveness and services to the community. Now more than ever, this has become critical due to declining fiscal resources.

Overview of TxDOT Outsourcing

TxDOT performs a wide variety of services that benefit the citizens of Texas with the ultimate goal of transporting people and goods safely across the state. There are many components from the beginning stages of development to the point of construction that require specific skills for successful completion of a transportation project. Some of these skills are very technical in nature; others are more prosaic. The following information will provide an overview of the general services that are outsourced by TxDOT to the private sector.

Construction and Maintenance

By far, the largest dollar volume of work outsourced by TxDOT is for construction and maintenance services. TxDOT performs no in-house construction on our highways; therefore, we rely heavily upon the private road building industries to construct roadways. On the other hand, highway maintenance is a shared responsibility of department personnel and private sector maintenance contractors. This symbiotic partnership is mutually beneficial to TxDOT, the construction business, and perhaps most important, the taxpayer.

Contracts for highway improvements, construction or maintenance, are awarded on a low bid basis defined by state law (Transportation Code, Chapter 223.0041). The dollar value of these contracts form what is commonly referred to as the Department's letting totals.

At its monthly meetings, the Texas Transportation Commission (Commission) awards highway construction and maintenance contracts to the private sector in varying amounts, with an average of \$267 million each month.

Professional Services

Another area where TxDOT outsources services falls under the “professional services” category. This includes a variety of work such as engineering, aerial mapping/surveying, right of way acquisition/appraisals, outside counsel, and other scientific services (historians, archeologists, etc.). Highlighted below are some of the more significant services contracted to the private sector. Engineering services and aerial mapping/surveying will be discussed in greater detail later in this testimony.

Right of Way Acquisition and Appraisals: The first step in the right of way process requires identification of property needed for a transportation project. This process requires a great amount of detailed information to identify the amount of property required for the project and to ensure TxDOT compensates the affected property owner with a fair market value of the property. One key step in right of way acquisition is to ensure compliance with state and federal guidelines.

The right of way process also involves making offers based on fair market appraisal values determined by independent contracted appraisers, entering into negotiations, determining any relocation benefits that the owner/tenant may be eligible for and utilizing the eminent domain process when required. Currently, approximately 85 percent of the right of way acquisition process is handled in house by TxDOT employees. As part of its regionalization efforts, the Department handles right of way acquisition services through its regional offices with the intent to equalize the workload among the employees located within the regions.

When the business need dictates supplemental right of way staffing for increased or accelerated letting schedules, the Department draws right of way acquisition services from 27 right of way acquisition provider companies that are under 2-year contracts. Each firm received a contract by responding to a competitive public request for proposal and by demonstrating right of way services in seven work tasks required to bring a parcel of real estate into possession of the state for transportation purposes. The work tasks include title services, appraisal services, appraisal review services, negotiation services, relocation services, condemnation support services, disposal of property services, and project administrative services.

As mentioned above, independent contractors are responsible for a fair amount of professional services within TxDOT, including preparing, developing and reviewing fee appraisals. TxDOT contracts out 98 percent of appraisals for right of way projects. Occasionally minor in-house value findings are prepared when dealing with small parcels or minor surplus properties. In addition, TxDOT has very limited numbers of appraisal review staff so much of this work (approximately 65 percent) is contracted out to certified review appraisers.

Outside Counsel: Although TxDOT employs an internal general counsel to handle routine legal issues, the Department also seeks outside counsel for specific legal opinions and expertise. TxDOT contracts with various private attorneys for services such as counsel for non-traditional funding methods, legal services for tax-related matters, environmental counsel related to the National Environmental Policy Act (NEPA), federal rail issues and intellectual property and patents.

The payout amount for all legal services from September of 2009 to present totals \$2.19 million. It is important to note that all outside counsel contracts must be procured with the approval from state's Attorney General.

Scientific Services: Transportation Code, Chapter 223, Subchapter D provides for the procurement of contracts to obtain services from technical experts such as archeologists, biologists, geologists, or historians. Technical or scientific experts are important for conducting certain environmental or cultural assessments which are required by state or federal law for transportation projects. Most contracts for scientific services are four-year contracts. The current contract amounts for these services are:

- Archaeology - \$13.25 million
- Biology - \$2.5 million
- Project Delivery - \$10 million
- Hazardous Materials - \$7.5 million
- Historical - \$2 million
- Stormwater - \$1.98 million
- Water Resources - \$250,000

Consultant Engineer Contracting

Engineering and design are also examples of activities where the workload is shared between TxDOT and a robust private sector industry. Consultant engineering contracts are different in some respects. Under the state's professional services procurement law, contracts for engineering-related services are negotiated contracts. Similar to highway improvement contracts, contracts for engineering services may also pay out over a lengthy period of time; expenditures for consulting contracts will not correlate with the negotiated value of those contracts on a year-to-year basis. It's important to mention that according to Texas Transportation Code, Chapter 223.041, the Department is required to contract to private sector providers for no less than 35 percent of the total funds appropriated in Strategy A.1.1.AAPlan/Design/Manage and Strategy A.1.2. of the General Appropriations Act (GAA) for the biennium. For 2010, the Department is on track to outsource 38.5 percent to fulfill Strategy A.1.1.AAPlan/Design/Manage and Strategy A.1.2 of the GAA.

Prior to providing contract value and expenditure data, it is important to understand the types of private sector work reflected in each category within the table exhibited below. Please note the following definitions for the type of contract or engineering service.

Planning Contracts: Typically includes route studies, schematic design, and other study efforts such as traffic, freight, rail, traffic and revenue, statewide planning, etc. These contracts often include environmental components as well.

Design Contracts: Typically includes plans, specifications and estimates as well as other design support services like geotechnical, signal design, utility coordination. These contracts may also have environmental components as well.

Mixed Contracts: These contracts cover functions in both the planning and design service areas.

Other Contracts: Include engineering services that fall outside the typical project development process such as value engineering, bridge inspections, Comprehensive Development Agreement support, hazmat mitigation, etc.

The table below depicts the number and dollar value of engineering contracts executed in fiscal years 2006 through 2010. The contracts are generally subdivided by category of project development work based on the contract description. Again, the dollar values shown reflect the contract's dollar capacity only and do not represent expenditures. Expenditures for these contracts will typically occur over multiple years and 100 percent of the capacity may not be used.

Number and Dollar Value of Engineering Contracts Executed by Fiscal Year

Engineering Services	FY 2006		FY 2007		FY 2008		FY 2009		FY 2010	
	No.	Value	No.	Value	No.	Value	No.	Value	No.	Value
Planning	18	\$ 45,550,000	27	\$ 59,884,676	20	\$ 2,574,428	8	\$ 16,000,000	5	\$ 21,604,113
Design	83	\$121,682,926	98	\$175,098,543	30	\$ 56,979,346	34	\$ 68,696,850	30	\$ 68,781,322
Mixed	77	\$174,035,771	94	\$142,037,256	63	\$103,708,798	36	\$ 59,250,350	7	\$ 13,000,000
Other	11	\$115,303,276	39	\$200,802,737	20	\$ 34,665,058	40	\$139,169,177	22	\$ 36,460,000
Total	189	\$456,571,973	258	\$577,823,212	133	\$197,927,630	118	\$283,116,377	64	\$ 138,845,436

(Source: TxDOT Design Division; DES-CCO Contract Database)

As of September 2010, the department had 555 active consultant engineering contracts with a total dollar value of over \$2.2 billion. This includes 188 contracts that were executed prior to FY 2006. While the total value does not represent expenditures, the Department estimates over 60 percent of existing contract value has already been expended. In addition, 90 percent of these contracts are "indefinite deliverable" which means they are not specific to one project and can often cover multiple phases of project development. Some indefinite deliverable contracts are very discipline specific for projects such as traffic engineering, hydraulic studies or geotechnical engineering, and can be used to support multiple projects.

Proposition 12

Our recent approval from the Legislative Budget Board to issue Proposition 12 bonds authorized by the 81st Legislature is yet another step in our efforts to address the state's transportation challenges by working cooperatively with our private sector partners. This approval allows for \$1 billion for highway improvement projects, including \$160 million for consultant engineering work with contracting, planning and design services.

Rider 57

Most recently, the Legislature directed the Comptroller of Public Accounts to study this issue (see Rider 57 of TxDOT's bill pattern, Article VII, SB 1, Regular Session, 81st Texas Legislature). Accomplishing this task in a fair and equitable manner necessitates an "apples-to-apples" comparison which has proven difficult over time due to a variety of reasons, not the least of which is the existence of outdated legacy systems utilized by the Department to capture historical data. TxDOT is diligently working to replace these systems.

TxDOT continues to undertake efficiency and accountability initiatives which focus on actively managing resources to ensure the state receives the greatest value in return. This is evident by the numerous planning-related transparency initiatives presently underway at the agency.

Aerial Mapping/Photogrammetry

In the 1930s, the Texas Highway Department began using aerial photography for preliminary planning surveys. Most of these early photographs were obtained from the United States Department of Agriculture. Photogrammetry, the science of obtaining reliable measurements through the use of aerial photography, was destined to become a valuable tool in highway engineering in the years that followed. Sophistication of photogrammetric instruments enabled accurate engineering data to be extracted from the tremendous amounts of information visible in the aerial photographs. Increasing requests for this information prompted the organization of a Photogrammetry Section within the Texas Highway Department in 1956. The primary function of this section was to act as a consultant to the highway engineering offices throughout the state and to assist in obtaining photogrammetric maps.

Since 1965, the Photogrammetry Section, as part of the Texas Highway Department's Automation Division, began producing design level maps for district engineering operations. Today, these services have continued to effectively support TxDOT engineering operations.

Since the early 1990's, TxDOT staff providing photogrammetry services has been reduced from 51 full-time employees (in 1990) to 15 full-time employees (in 2009). With technological advances, and process and hardware improvements, the Department has been able to reduce staff, while maintaining and even improving services for district engineering projects.

Current Processes for TxDOT Surveying Services

The majority of TxDOT surveying is contracted out through TxDOT professional services contracts on a two year cycle. These contracts are established based on the anticipated surveying needs for upcoming engineering projects within the TxDOT districts. Contracts are established to include one or more surveying functions such as ground surveys, parcel plats, right of way maps, and aerial mapping. Additionally, work categories, percentages of work per category, and related costs established within the professional services contract are estimated based on the work anticipated to be performed during the two-year contract period. TxDOT personnel are responsible for determining whether specific project requirements will be best supported through the use of ground surveying or aerial photography. When aerial mapping services are included in a TxDOT's professional services contract, each surveying firm awarded this type of contract will obtain an aerial mapping firm(s) as a subcontractor(s). In order for an aerial mapping firm to receive work under the contract, TxDOT must make the determination that aerial mapping is the most effective surveying tool for the project and that the aerial mapping services for the project should be obtained via the contract.

During the four year period (FY05 through FY08), 67 percent of all TxDOT aerial mapping projects were delivered by private sector providers while only 33 percent of these services were delivered by in-house resources. This trend has changed to approximately 50 percent due to the decreased amount of funding available for contracting work in FY09 as well as an overall decrease in work load; the quantity of work for FY10 is projected to be reduced even more for contracting work for the same reasons.

As you can see, TxDOT has an extensive history and the institutional knowledge required to deliver photogrammetry and aerial mapping services. As a result, the Department remains prepared to provide design-level mapping products and photo lab services today and into the future.

Conclusion

TxDOT appreciates the opportunity to address the Committee on the Department's efforts in meeting our transportation needs through a combination of employee expertise and the invaluable use of the private sector to deliver quality transportation projects. We will continue to work cooperatively with the private consultants to ensure the best resources are available to complete projects in a timely and cost effective manner. We are committed to providing the information the Committee finds necessary to further examine this issue and welcome any input as we work towards greater efficiency, accountability, and transparency in all functions and operations of the agency.